

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

KOREY L. BAKER,	:	
Petitioner,	:	Case No. 3:06cv00045
vs.	:	District Judge Thomas M. Rose
EDWIN VOORHIES, ¹ Warden, Southern Ohio Correctional Institution,	:	Magistrate Judge Sharon L. Ovington
Respondent.	:	

DECISION AND ENTRY

The Court has reviewed *de novo* the Report and Recommendations of United States Magistrate Judge Sharon L. Ovington (Doc. #20), to whom this case was originally referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby adopts said Report and Recommendations.

Accordingly, it is hereby **ORDERED** that:

1. The Report and Recommendations filed on July 15, 2009 (Doc. #20) is **ADOPTED** in full;
2. Petitioner's Application For Certificate Of Appealability (Doc. #18) is **GRANTED**, and a Certificate of Appealability shall issue pursuant to 28 U.S.C. §2253(c) on each of the following issues:

¹ Phillip Kerns is the current Warden of the Southern Ohio Correctional Institution and is therefore the proper Respondent in this case. *See* 28 U.S.C. §2242. For docketing continuity, the case caption will remain the same.

- A. Whether Petitioner was deprived of his right to the effective assistance of appellate counsel, as guaranteed by the Fourteenth Amendment to the United States Constitution, based on appellate counsel's failure to raise a claim that Petitioner's sentence was imposed in contravention of the United States Constitution.
- B. Whether Petitioner's non-minimum and consecutive sentences were imposed in contravention of the Sixth Amendment to the United States Constitution.

2. Petitioner's Motion For Leave To Proceed On Appeal *In Forma Pauperis* pursuant to Fed. R. App. P. 24 (Doc. #17) is GRANTED.
3. The case remains terminated on the docket of this Court.

August 4, 2009

***S/THOMAS M. ROSE**

Thomas M. Rose
United States District Judge